

AUTHORIZING THE SECRETARY OF THE INTERIOR TO DISPOSE
OF CERTAIN LANDS IN THE STATE OF MONTANA TO THE
PHILLIPS COUNTY POST OF THE AMERICAN LEGION

MAY 29, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

[To accompany S. 1053]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1053) to authorize the Secretary of the Interior to dispose of certain lands in the State of Montana to the Phillips County Post of the American Legion, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF S. 1053

If enacted, S. 1053 would permit the Secretary of the Interior to dispose of the 60 acres of land described in the bill, for recreational purposes, to the Phillips County Post, No. 57, of the American Legion, Department of Montana, lessee of the land since 1932. The land would be disposed of under the provisions of the Recreation Act of June 14, 1926 (44 Stat. 741; 43 U. S. C., 1952 ed., sec. 829), as amended by the act of June 4, 1954 (68 Stat. 173).

No appropriation of Federal funds is required by this legislation.

EXPLANATION OF THE BILL

The act of June 30, 1932 (47 Stat. 452), withdrew the lands described in the bill from all forms of entry; dedicated them "to the purpose of securing the proper care of the warm waters flowing from the abandoned Bowdoin well and to other properly related recreational uses"; and authorized the Secretary of the Interior to lease them to the Phillips County Post, No. 57, of the American Legion, Department of Montana, for a period of 25 years.

Since June 30, 1932, the Phillips County Post has placed substantial improvements on the property and has operated and maintained a swimming pool and baths thereon for the benefit of the public. Since the present 25-year lease will soon expire and additional improvements are planned for the future, the Phillips County Post is desirous of purchasing the property under the provisions of the Recreation Act, as amended.

The Department of the Interior reports that there is no Federal program for the use of the land which would require the retention of title by the Federal Government and that the lands in question would now be eligible for disposal under the amended Recreation Act except for an unusual and apparently unintentional technicality involving the use of the word "dedicated" in the language of the 1932 act wherein it is provided that the said lands—

are hereby withdrawn from entry and dedicated to the purpose of securing the proper use of the warm waters flowing from the abandoned Bowdoin well, and to other properly related recreational uses.

The use of the word "dedicated" in the 1932 act, while believed by the Department of Interior to have been employed simply to provide for a withdrawal of the lands, nevertheless raises doubt as to whether the lands can be disposed of under the provisions of the amended Recreation Act.

If enacted, S. 1053 would effectively remove the technicality referred to by authorizing the Secretary of the Interior to dispose of the lands in question under the provisions of the amended Recreation Act. This act provides, in the case of land sales to nonprofit corporations or associations, that the land shall be sold at a price to be fixed by the Secretary of the Interior through appraisal, taking into consideration the use to which the lands will be placed; that the minerals be reserved to the United States; and that the land will revert to the United States if, within 25 years after the issuance of patent for such lands, it is used for any purpose other than that for which it was conveyed.

The committee concludes that the enactment of this legislation would be in the public interest.

DEPARTMENTAL REPORT

The favorable report of the Department of the Interior, as submitted to the Senate Committee on Interior and Insular Affairs, wherein it is reported that the Bureau of the Budget has no objection, is set forth below. S. 1053, as passed by the Senate, contains the substitute language suggested by the Department.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., June 13, 1955.

HON. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MURRAY: This is in reply to your request for the views of this Department on S. 1053, a bill to amend the act authorizing the Secretary of the Interior to lease certain lands in the

State of Montana to the Phillips County Post of the American Legion in order to authorize the renewal of such lease.

We would have no objection to the enactment of S. 1053, if amended as suggested below.

Section 2 of the act of June 30, 1932 (47 Stat. 452) authorized the Secretary of the Interior to lease the southwest quarter southeast quarter and the east half southeast quarter southwest quarter of section 35, township 32 north, range 32 east, Montana principal meridian, the whole comprising 60 acres, to Phillips County Post, No. 57, of the American Legion, Department of Montana, for a period of 25 years, upon such conditions as he should prescribe. Section 1 of the 1932 act withdrew the described lands from all forms of entry and dedicated them "to the purpose of securing the proper use of the warm waters flowing from the abandoned Bowdoin well and to other properly related recreational uses." This tract, which has been substantially developed, partly from proceeds realized by the post and partly from Public Works Administration funds, is being used for the purposes specified in the 1932 act.

S. 1053, if enacted, would amend section 2 of the 1932 act to permit the Secretary to renew the lease for an additional 25 years. We know of no reason why the present use of these lands should be terminated in 1958, upon the expiration of the present lease. Indeed, since there is no Federal program for the use of these lands which requires the retention of title by the Federal Government, we would not object to the sale, instead of the lease, of the lands in question to the Legion post. However, the Recreation Act of 1926 (44 Stat. 741; 43 U. S. C., 1952 ed., sec. 869) was amended by the act of June 4, 1954 (68 Stat. 173; Public Law 387, 83d Cong.), and the Secretary of the Interior now has general authority to dispose of public lands by sale or lease to nonprofit corporations or associations for any recreational or other public purpose consistent with their articles of incorporation or other authority under which they were established. We believe that the Legion post could either obtain, under section 2 (d) of the 1954 act, a 20-year lease, with a privilege of renewal for a similar period at the discretion of the Secretary, or purchase the tract under section 2 (c) of that act at a price to be fixed by appraisal. It is true that the language in section 1 of the 1932 act, stating that the lands are dedicated to certain purposes, is unusual in a statute of that sort, and, though we believe that the intention of that language was merely to provide for a withdrawal of the lands, which would not prevent their disposition under the 1954 act, it might be argued that the lands cannot be sold to the Post under the terms of the amended Recreation Act. If the committee should find merit in that argument, we would recommend that S. 1053 be amended to make certain that the lands in question are subject to all forms of disposition under the amended Recreation Act. If S. 1053 were revised along the lines of the enclosed draft, this object would be achieved.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Acting Secretary of the Interior.

The Committee on Interior and Insular Affairs recommend the enactment of S. 1053.

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State of Alaska, and the United States of America, in the year 1902.

The Commission on the subject of the Alaska Land Office, created by the Act of March 3, 1897, Chapter 12, Section 1, of the Statutes at Large, has the honor to submit herewith its report.

The Commission was organized on July 1, 1897, and has since that time been engaged in a study of the various questions connected with the management of the public lands in Alaska. It has held numerous public hearings, and has received many suggestions from the people of the Territory. It has also conducted extensive investigations into the various problems connected with the land office, and has prepared a number of reports on these subjects. The Commission believes that the information it has gathered is of great value to the Government, and it is therefore submitting this report to the Secretary of the Interior, for his consideration and approval.

Very respectfully,
J. W. F. ALLEN,
Commissioner of the General Land Office.

The Commission on the subject of the Alaska Land Office, created by the Act of March 3, 1897, Chapter 12, Section 1, of the Statutes at Large, has the honor to submit herewith its report.